

AMENDED IN ASSEMBLY APRIL 6, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2460

Introduced by Assembly Member Evans

February 23, 2006

An act to amend Sections 9002 ~~and 9008~~, 9008, 9011, and 11104 of, to add Sections 9004.5, ~~9009.5~~, and 9032.5 to, to repeal Section 336 of, and to repeal and add Sections 9007 and 9009 of, the Elections Code, relating to ~~initiatives~~ *elections*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2460, as amended, Evans. Secretary of State: statewide ~~initiative~~ measures and recall petitions.

(1) Under existing law, a petition for an initiative or referendum measure may not be circulated for signature until a draft of the measure is submitted to the Attorney General for preparation of a title and summary. Upon receipt of the title and summary from the Attorney General, the Secretary of State is required to notify the proponents and mail copies to each county elections official that includes a complete schedule of specified filing deadlines.

Existing law also requires the Attorney General to transmit copies of the text of the measure and summary to the Senate and Assembly and requires that the proposed initiative *or referendum* measure, prior to circulation, contain specified information, including, among other things, the summary prepared by the Attorney General upon each page of the petition on which signatures are to appear.

This bill would require the Secretary of State, upon receipt of the title and summary from the Attorney General of an initiative *or referendum* petition, to notify the proponents that the petition must be

submitted to the Secretary of State for review prior to its circulation for signatures.

The bill would also revise and recast these provisions to specify requirements for filing and approval by the Secretary of State and for filing the proposed initiative *or referendum* measure with the county elections official from the date that the Secretary of State notifies the proponents that the petition is approved and would require the Secretary of State to transmit copies to the Senate and the Assembly. ~~The bill would also require the proponents of the proposed initiative measure to pay a \$200 refundable fee.~~

(2) Existing law requires the elections official of the county or city and county in which each section of the petition is circulated to determine the total number of signatures affixed to the petition and to transmit this information to the Secretary of State. Existing law also requires the Secretary of State to immediately notify the elections official if the number of signatures filed with all elections officials is 100% or more of the number of qualified voters needed to declare the petition sufficient.

This bill would require each elections official, immediately upon receipt of the notification specified above, to select a sample of $\frac{1}{2}$ of 1% of the petition sections filed in the county or city and county for review by the Secretary of State to ascertain if the text, title, and summary of those petition sections are identical to those approved by the Secretary of State. *By increasing the duties of local elections officials, the bill would create a state-mandated local program.*

This bill would also require the Secretary of State, if the Secretary of State determines that a petition section is not identical, to immediately notify the elections official and would require the elections official to transmit a copy of each petition section for verification by the Secretary of State. Upon completion of the verifications, the Secretary of State would be required to notify the elections official of his or her findings and the signatures contained on petition sections that are not identical would not be counted toward the number of qualified voters required to find the petition sufficient to qualify for placement on the ballot.

(3) *Existing law requires that signatures for a recall petition be verified in the same manner as petitions for initiative and referendum petitions.*

This bill would additionally require that signatures that are contained on petition sections that are not identical to those approved

by the Secretary of State shall not be verified or counted by the elections official.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 336 of the Elections Code is repealed.

2 SEC. 2. Section 9002 of the Elections Code is amended to
3 read:

4 9002. (a) Prior to the submission to the Secretary of State for
5 review of any initiative or referendum petition pursuant to
6 Section 9009, a draft of the proposed measure shall be submitted
7 to the Attorney General with a written request that a title and
8 summary of the chief purpose and points of the proposed
9 measure be prepared. The title and summary shall not exceed a
10 total of 100 words.

11 (b) The persons presenting the request shall be known as the
12 “proponents.”

13 (c) The Attorney General shall preserve the written request
14 until after the next general election.

15 SEC. 3. Section 9004.5 is added to the Elections Code, to
16 read:

17 9004.5. (a) Upon receipt of the title and summary from the
18 Attorney General pursuant to Section 9004, as soon as
19 practicable, the Secretary of State shall notify the proponents of
20 the requirement that the initiative *or referendum* petition be
21 submitted to the Secretary of State for review prior to circulation
22 for signatures.

23 (b) No petition for a proposed initiative *or referendum*
24 measure shall be circulated for signatures prior to review and
25 approval by the Secretary of State pursuant to Section 9009.

1 Petitions with signatures on a proposed initiative measure shall
2 be filed with the county elections official not later than 150 days
3 from the date that the Secretary of State notifies the proponents
4 of the initiative that the form, text, title, and summary of the
5 proposed petition meet the requirements of this chapter, and no
6 county elections official shall accept petitions on the proposed
7 initiative measure after that period.

8 SEC. 4. Section 9007 of the Elections Code is repealed.

9 SEC. 5. Section 9007 is added to the Elections Code, to read:

10 9007. (a) As soon as practicable, upon the preparation of the
11 summary of an initiative or referendum petition, the Attorney
12 General shall transmit copies of the text of the measure and the
13 summary to the Secretary of State, the Secretary of the Senate,
14 and the Chief Clerk of the Assembly.

15 (b) As soon as practicable, upon the approval of an initiative
16 *or referendum* petition, the Secretary of State shall transmit
17 copies of the text of the measure and the initiative *or referendum*
18 petition to the Secretary of the Senate and the Chief Clerk of the
19 Assembly.

20 (c) The appropriate committees of each house may hold public
21 hearings on the subject of the measure. However, nothing in this
22 section shall be construed as authority for the Legislature to alter
23 the measure or prevent it from appearing on the ballot.

24 SEC. 6. Section 9008 of the Elections Code is amended to
25 read:

26 9008. (a) Every proposed initiative measure, prior to
27 circulation, shall have placed across the top of the petition in
28 12-point or larger roman boldface type, all of the following:

29 (1) The summary prepared by the Attorney General upon each
30 page of the petition on which signatures are to appear.

31 (2) The summary prepared by the Attorney General upon each
32 section of the petition preceding the text of the measure.

33 (3) The summary prepared by the Attorney General as
34 required by paragraph (2) shall be preceded by the following
35 statement: "Initiative measure to be submitted directly to the
36 voters."

37 (b) A space at least one inch wide shall be left blank across the
38 top of each page of every initiative petition, and after the name of
39 each voter who has signed the petition for the use of the county
40 elections official in verifying the petition.

1 (c) The Secretary of State shall not approve any statewide
2 initiative petition that does not comply with this section.

3 SEC. 7. Section 9009 of the Elections Code is repealed.

4 SEC. 8. Section 9009 is added to the Elections Code, to read:

5 9009. (a) Prior to circulation of a statewide initiative *or*
6 *referendum* petition, the proponents shall file two blank copies of
7 the petition with the Secretary of State, in his or her office during
8 normal office hours as posted. The Secretary of State shall
9 ascertain if the proposed petition meets the requirements of this
10 chapter and the text, title, and summary are identical to those
11 transmitted by the Attorney General pursuant to subdivision (a)
12 of Section 9007.

13 (b) The Secretary of State shall, within 10 days of receiving
14 the blank copies of the petition, notify the proponents in writing
15 of his or her findings.

16 (c) If the Secretary of State finds that the requirements of this
17 chapter are not met, the Secretary of State shall include in his or
18 her findings a statement as to what alterations in the petition are
19 necessary. The proponents shall, within 10 days after receiving
20 the notification, file two blank copies of the corrected petition
21 with the Secretary of State in his or her office during normal
22 office hours as posted. The 10-day correction notification period
23 and the 10-day filing period for corrected petitions shall be
24 repeated until the Secretary of State finds no alterations are
25 required.

26 (d) No signature may be affixed to a statewide initiative *or*
27 *referendum* petition until the Secretary of State has notified the
28 proponents that the form, text, title, and summary of the proposed
29 petition meet the requirements of this chapter. This notification,
30 which shall also be sent to the county elections official of each
31 county, shall also include a complete schedule showing the
32 maximum filing deadline, and the certification deadline by the
33 counties to the Secretary of State.

34 (e) *Notwithstanding any other provision of law, the*
35 *proponents shall not submit a proposed petition or a corrected*
36 *petition more than six months after the title and summary is*
37 *transmitted by the Attorney General pursuant to subdivision (a)*
38 *of Section 9007, and the Secretary of State shall not review the*
39 *petition.*

1 ~~SEC. 9. Section 9009.5 is added to the Elections Code, to~~
2 ~~read:~~

3 ~~9009.5. The proponents of any initiative measure, at the time~~
4 ~~of submitting the two blank copies of the petition to the Secretary~~
5 ~~of State pursuant to Section 9009, shall pay a fee of two hundred~~
6 ~~dollars (\$200), which shall be placed in a trust fund in the office~~
7 ~~of the Treasurer and refunded to the proponents if the measure~~
8 ~~qualifies for the ballot within two years from the date the~~
9 ~~Secretary of State notifies the proponents that the form, text, title,~~
10 ~~and summary of the proposed petition meet the requirements of~~
11 ~~this chapter. If the measure does not qualify within that period,~~
12 ~~the fee shall be immediately paid into the General Fund of the~~
13 ~~state.~~

14 ~~SEC. 9. Section 9011 of the Elections Code is amended to~~
15 ~~read:~~

16 ~~9011. (a) Across the top of each page after the first page of~~
17 ~~every referendum petition or section of a referendum petition,~~
18 ~~which is prepared and circulated, there shall be printed in~~
19 ~~18-point gothic type a short title, in 20 words or less, showing the~~
20 ~~nature of the petition and the subject to which it relates.~~

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22 ~~(b) A space at least one inch wide shall be left blank at the top~~
23 ~~of each page and after each name, for the use of the county~~
24 ~~elections official, in verifying the petition.~~

25 ~~(c) The Secretary of State shall not approve any statewide~~
26 ~~referendum petition that does not comply with this section.~~

27 ~~SEC. 10. Section 9032.5 is added to the Elections Code, to~~
28 ~~read:~~

29 ~~9032.5. (a) Immediately upon receipt of the notification~~
30 ~~required in subdivision (c) of Section 9030, each elections~~
31 ~~official shall select one-half of 1 percent of the petition sections~~
32 ~~filed in the county or city and county, and submit copies of those~~
33 ~~petition sections to the Secretary of State.~~

34 ~~(b) Within 30 days of the receipt of the petition sections~~
35 ~~described in subdivision (a), the Secretary of State shall ascertain~~
36 ~~if the text, title, and summary of those petition sections are~~
37 ~~identical to those approved by the Secretary of State pursuant to~~
38 ~~Section 9009.~~

39 ~~(c) If the Secretary of State determines that a petition section~~
40 ~~submitted by an elections official pursuant to subdivision (a) is~~

1 not identical to the petition approved by the Secretary of State
2 pursuant to Section 9009, the Secretary of State shall
3 immediately notify the elections official *and the Attorney*
4 *General* of this finding. Upon receiving this notice, the elections
5 official shall immediately transmit a copy of each petition section
6 filed in the county or city and county, and the Secretary of State
7 shall, within 30 days of their receipt, ascertain if the text, title,
8 and summary of each petition section are identical to those
9 approved by the Secretary of State pursuant to Section 9009.

10 (d) Upon completion of the verifications required in
11 subdivisions (b) and (c), the Secretary of State shall notify the
12 elections official of his or her findings. Signatures contained on
13 petition sections that are not identical to the petition approved by
14 the Secretary of State pursuant to Section 9009 shall not be
15 verified or counted by the elections official for purposes of
16 Sections 9030 and 9031.

17 *SEC. 11. Section 11104 of the Elections Code is amended to*
18 *read:*

19 11104. (a) The elections official, 30 days after a recall has
20 been initiated and every 30 days thereafter, or more frequently at
21 the discretion of the elections official, shall report to the
22 Secretary of State all of the following:

23 (1) The number of signatures submitted on the recall petition
24 sections for the period ending five days previously, excluding
25 Saturdays, Sundays, and holidays.

26 (2) The cumulative total of all signatures received since the
27 time the recall was initiated and through the period ending five
28 days previously, excluding Saturdays, Sundays, and holidays.

29 (3) The number of valid signatures, verified pursuant to
30 subdivision (b), submitted during the previous reporting period,
31 and of valid signatures verified during the current reporting
32 period.

33 (4) The cumulative total of all valid signatures received since
34 the time the recall was initiated and ending five days previously,
35 excluding Saturdays, Sundays, and holidays.

36 (b) Signatures shall be verified in the same manner set forth in
37 subdivisions (b), (c), (d), (e), (f), and (g) of Section 9030, and in
38 Section 9031. *Signatures that are contained on petition sections*
39 *that are not identical to those approved by the Secretary of State*

1 *pursuant to Section 11042 shall not be verified or counted by the*
2 *elections official.*

3 (c) The elections official, at the end of each 30-day period,
4 shall attach to the petition a form provided by the Secretary of
5 State, properly dated, that includes the information required by
6 subdivision (a), and submit a copy of the petition, except as to
7 the signatures appended thereto, to the Secretary of State and file
8 a copy of the form in his or her office.

9 (d) Notwithstanding subdivisions (a) and (b), and Section
10 11106, the elections official shall not be required to verify
11 signatures on a recall petition until the signatures submitted equal
12 at least 10 percent of the total signatures required to qualify the
13 recall for the ballot, as determined by the Secretary of State.

14 *SEC. 12. If the Commission on State Mandates determines*
15 *that this act contains costs mandated by the state, reimbursement*
16 *to local agencies and school districts for those costs shall be*
17 *made pursuant to Part 7 (commencing with Section 17500) of*
18 *Division 4 of Title 2 of the Government Code.*